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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,143	06/25/2001	Peter Kamvysselis	EMS-01701	8831
53427 7590 12/01/2008 MUIRHEAD AND SATURNELLI, LLC 200 FRIBERG PARKWAY, SUITE 1001 WESTBOROUGH, MA 01581				
EXAMINER				
TANG, KENNETH				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/891,143

Applicant(s)

KAMVYSSELIS ET AL.

Examiner

KENNETH TANG

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 17-22 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 17-22 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This action is in response to the BPAI Decision on Appeal on 9/2/08 and the RCE/Amendment/Reply by the Applicant on 11/3/08. Applicant's arguments have been fully considered but were not found to be persuasive.
2. Claims 1-6, 17-22, and 27 are presented for examination.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. In addition the acronym "RA" needs to be spelled out if being used in the amended title.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is a lack of antecedent basis in the Specification for the term "computer-readable storage medium" found in claims 17-22.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5-6, 17, 21-22, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poublan et al. (hereinafter Poublan) (US 4,104,718) in view of Brackett et al. (hereinafter Brackett) (US 6,519,632 B1), and further in view of Atkin et al. (hereinafter Atkin) (US 5,900,871).

6. As to claim 1, Poublan teaches a method of providing multiple jobs for a device associated with a communication device (*col. 1, lines 34-44*), comprising:

providing a plurality of device records (files), wherein each of the device records corresponds to a device associated with the communication device (*col. 9, lines 14-19, col. 56, lines 35-55*);

providing a plurality of job records for at least one of the device records, wherein each of the job records contains at least some information (*col. 40, lines 1-19*); and

linking (pointer) the job records and the corresponding device record so that any one of the job records may be accessed by first accessing the corresponding one of the device records (*col. 41, lines 43-45*).

7. Poublan fails to explicitly teach that the job records contain information that is also provided in the corresponding one of the device records and exchanging data between the two communication devices. However, Brackett teaches having job records containing information that is also provided in the corresponding one of the device records for a system that communicates with multiple remotely located storage or printing devices (*col. 5, lines 30-33, col. 8, lines 5-16, Fig. 2, Fig. 6 and 8*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Poublan and Brackett because this increases

communication ability of data records, as stated in Brackett (*col. 5, lines 30-33, col. 8, lines 5-16*).

8. Poublan and Brackett are silent wherein jobs corresponding to the job records associated with a particular device record are serviced by different entities. However, Atkin teaches that it is typical and well known in the art for a computer system to have entities such as adaptors. Specifically, Atkins discloses an input/output adaptor for connecting disk units 20, for example. Atkins also discloses another entity such as a communication adaptor 34, wherein it transfers data and links the device with hundreds or even thousands of similar devices such as remote printers, remote services, or remote storage units (*col. 4, lines 60-67 through col. 5, lines 1-15*).

9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Atkin with Poublan and Brackett because this would allow for dynamic data management among a plurality of system/devices, as stated in Atkin (*col. 3, lines 43-51, col. 4, lines 13-26, col. 5, lines 30-33, col. 8, lines 5-16*).

10. Furthermore, such task or job of the combined teachings of Poublan, Brackett, and Atkin would be serviceable by more than one of the remote entities. That is, at least more than one of the hundreds or thousands of the remote printers, servers, or storage units could have serviced the job (as agreed upon by the BPAI Decision on 9/2/08). Therefore, it would be obvious to one of ordinary skill in the art to service the serviceable job because it would provide the predicted result of jobs from (the entities/adaptors) such as printing, communicating, etc. to actually occur. Without servicing the service capable jobs, the actual jobs such as printing, communicating, etc. would not occur. Therefore, it would have been obvious to combine Poublan, Brackett, and Atkin to obtain the invention of claim 1.

11. As to claim 5, Poublan teaches wherein at least one of the device records includes a pointer to one of the job records corresponding to an active job (*col. 12, lines 43-51 and col. 50, lines 13-25*).

12. As to claim 6, Poublan fails to explicitly teach wherein each of the job records includes information not found in other ones of the job records. However, it would have been obvious to one of ordinary skill in the art to combine the feature of job records including information not found in other ones of the job records because this prevents grouping uncommon information together in a job record, which increases organization.

13. As to claim 17, it is rejected for the same reasons as stated in the rejection of claim 1.

14. As to claims 21-22, they are rejected for the same reasons as stated in the rejection of claims 5-6.

15. As to claim 27, Poublan teaches wherein the device and the communication device are included in a remote data storage system which communicates with a local data storage system including another communication device, a request from said local data storage system using said other communication device causing creation of one of said job records in said remote data

storage system (*col. 9, lines 14-19, col. 56, lines 35-55, col. 40, lines 1-19, col. 41, lines 43-45col. 1, lines 34-44*).

16. Claims 2-4 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poublan et al. (hereinafter Poublan) (US 4,104,718) in view of Brackett et al. (hereinafter Brackett) (US 6,519,632 B1) in view of Atkin et al. (hereinafter Atkin) (US 5,900,871), and further in view of James (US 6,035,376).

17. As to claim 2, Poublan teaches using pointers to link device records and job records (see rejection of claim 1). Poublan, Brackett, and Atkin fail to explicitly teach providing one of a plurality of shared pointers in each of the job records and the corresponding one of the device records, wherein all of the shared pointers point to the corresponding one of the device records. However, James teaches using shared pointers, which increases efficiency by saving from using multiple copies (*col. 4, lines 52-56 and col. 6, lines 13-16*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the feature of shared pointers to Poublan, Brackett, and Atkin's device communication system which also uses pointers in order to gain the benefit described above.

18. As to claim 3, Poublan, Brackett, and Atkin fail to explicitly teach wherein linking the job records includes providing a forward pointer and a backward pointer for each of the job records. However, James teaches using a forward pointer and a backwards pointer for each job

fields of records in order to provide the advantage of allowing the data to be transferred immediately when it is available. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the feature of using forward pointers and a backward pointers to Poublan, Brackett, and Atkin's device communication system which also uses pointers in order to gain the benefit described above.

19. As to claim 4, Poublan teaches wherein linking the job records also includes providing a pointer to one of the job records in the corresponding one of the device records (*col. 41, lines 43-45*).

20. As to claims 18-20, they are rejected for the same reasons as stated in the rejection of claims 2-4.

Response to Arguments

21. During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

22. *Applicant argues on page 11 of the Remarks that Poublan, nor Brackett, nor Atkin teach that “multiple entities” may service device jobs and gives an example of multiple entities used in a background copy operation, wherein the jobs may be handled by multiple entities (Applicant implies at the same time), to allow sooner completion.*

23. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., multiple entities) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant's arguments are more narrow and specific than the broadest reasonable interpretation that the claims require.

24. Nevertheless, the Applicant points to page 27, lines 7-9 of the Specification to show “entities” as being adapters (such as DA 36 or RA 32 in Fig. 1). Applicant mentions this in the Appeal Brief on page 8, line 5-7 of the 2nd paragraph. As stated in the rejection, Atkins et al. teaches a plurality of adapters (entities) such as an input/output adapter 29 and a communication adapter 34, wherein it transfers data and links the device with hundreds or even thousands of similar devices such as remote printers, remove services, or remote storage units (col. 4, lines 60-67 through col. 5, lines 1-15). In col. 5, lines 1-15, Atkins et al. disclose four adapters such as I/O adapter 18, User interface adapter 22, Communication adapter 34, and Display adapter 36. These plurality of adapters satisfy the Applicant's definition of “entities” that are capable of satisfying the jobs, ie., print jobs, communication jobs, etc. The Decision from the BPAI on 9/2/08 affirms that the at least more than one of the hundreds or thousands of the remote printers, servers, or storage units of Atkin's invention could have serviced the job (see BPAI Decision,

page 9, last paragraph). Since Atkin's storage units could have serviced the job, it would be obvious to actual do so because the jobs such as printing, communicating, etc. would then occur.

25. Although Applicant has mentioned that "entities" can be adapters, the Specification does not necessarily define entities as being adapters. In fact, the term "entities" is not found in the Specification. Atkins et al. teaches the data transferring by the adapter to a device or devices such as a remote printer, wherein the remote printer executes print jobs. Therefore, in addition to adapters, "entities" could also include the plurality of devices connected to the adapter, as one example.

26. In addition, Pouban further supports the explanation of Atkins. As mentioned above, because the term "entities" has not been specifically defined in the Specification, the broadest reasonable interpretation of "entities" could also be the actual devices themselves. Therefore, the mere fact that there are a plurality of devices that have the capability of performing a job/task, shows that there is a teaching of being serviceable by more than one entity.

27. *Applicant argues on page 12 of the Remarks that Atkin does not appear to teach job records for servicing the adaptor.*

28. In response, the Examiner respectfully disagrees. As stated from the BPAI Decision on Appeal on 9/2/08, Applicant is arguing individually that Atkin does not disclose the claimed invention. However, the Examiner has rejected the claims based on the combination of Pouban, Brackett, and Atkin, and nonobviousness cannot be shown by attacking the references individually (see BPAI Decision, page 10, 2nd paragraph). See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

29. *Applicant argues on page 13, 1st paragraph, that Pouban, Brackett nor Atkin teach at least one of the jobs is serviced by one of the different entities accessing the particular device record, being linked to the job record corresponding to the at least one of the jobs, and then servicing the at least one of the jobs.*

30. As stated from the BPAI Decision on Appeal on 9/2/08, it was acknowledged that Atkins discloses that the communication adaptor links the device with hundreds or even thousands of similar devices such as remote printers, remote servers, or remote storage units. That is, at least more than one of the hundreds or thousands of the remote printers, servers, or storage units could have serviced the job (see BPAI Decision, page 9, last paragraph). Since Atkin's storage units could have serviced the job, it would, therefore, be obvious to actual do so or else jobs such as printing, communicating, etc. would not occur.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENNETH TANG whose telephone number is (571)272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195

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